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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/914,966	09/06/2001	Larry Neil Mackey	U 013595-2	6640

27752 7590 04/07/2005

THE PROCTER & GAMBLE COMPANY
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EXAMINER

JUSKA, CHERYL ANN

ART UNIT

PAPER NUMBER

1771

DATE MAILED: 04/07/2005

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary

Application No.

09/914,966

Applicant(s)

MACKEY ET AL.

Examiner

Cheryl Juska

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-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 06 March 2005.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 11-18 and 20-32 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 11-18 and 20-32 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
- ☐ Certified copies of the priority documents have been received.
 - ☐ Certified copies of the priority documents have been received in Application No. _____.
 - ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- | | |
|--|---|
| 1) <input type="checkbox"/> Notice of References Cited (PTO-892) | 4) <input type="checkbox"/> Interview Summary (PTO-413)
Paper No(s)/Mail Date. _____ |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | 5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152) |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)
Paper No(s)/Mail Date _____ | 6) <input type="checkbox"/> Other: _____ |

DETAILED ACTION

Continued Examination Under 37 CFR 1.114

1. A request for continued examination under 37 CFR 1.114, including the fee set forth in 37 CFR 1.17(e), was filed in this application after final rejection. Since this application is eligible for continued examination under 37 CFR 1.114, and the fee set forth in 37 CFR 1.17(e) has been timely paid, the finality of the previous Office action has been withdrawn pursuant to 37 CFR 1.114.

Response to Amendment

2. Applicant's amendment filed March 6, 2005 has been entered. Claims 11, 29, and 30 have been amended as requested. The pending claims are 11-18 and 20-32.

Claim Rejections - 35 USC § 103

3. The text of those sections of Title 35, U.S. Code not included in this action can be found in a prior Office action.

4. Claims 11-13, 15-18, 20-27, 29, and 30 stand rejected under 35 U.S.C. 103(a) as being unpatentable over US 4,243,480 issued to Hernandez et al. as set forth in section 4 of the last Office Action.

Applicant has amended the claims to limit the starch fiber to being absorbent.

Additionally, applicant argues that Hernandez teaches water insensitive starch fibers for the

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replacement of cellulosic fibers in conventional papermaking operations (Amendment, paragraph spanning pages 5-6 and 1st paragraph, page 6). Applicant states, "Cellulosic fibers are water insensitive." (Amendment, page 6, 1st paragraph). As such, applicant believes the Hernandez reference teaches away from the presently claimed absorbent starch fibers.

The examiner respectfully disagrees. Specifically, it is true Hernandez teaches water insensitive starch fibers. However, it appears applicant is erroneously equating water insensitivity with non-absorbency. It is clear from Hernandez's disclosure that the term water insensitive is meant to describe the fibers ability to withstand aqueous process conditions without losing integrity (col. 1, lines 36-41). In other words, water insensitive fibers means water insoluble fibers (col. 9, lines 51-52). Insolubility in water is clearly not equivalent to being non-absorbent. Also true is the fact that cellulosic fibers are water insensitive. However, cellulosic fibers are very well known in the art for their water absorbency. Therefore, applicant's arguments are incorrect and the above rejection is maintained.

5. Claim 14 stands rejected under 35 U.S.C. 103(a) as being unpatentable over the cited Hernandez reference in view of US 5,516,815 issued to Buehler et al. for the reasons of record.

6. Claim 28 stands rejected under 35 U.S.C. 103(a) as being unpatentable over the cited Hernandez reference for the reasons of record.

7. Claims 31 and 32 are rejected under 35 U.S.C. 103(a) as being unpatentable over the cited Hernandez patent for the reasons of record.

Response to Arguments

8. Applicant's arguments filed with the amendment have been fully considered but they are not persuasive.

9. Applicant traverses the obviousness rejection with respect to the claimed fiber diameter (i.e., less than 10 microns) by asserting Hernandez lacks a teaching that the fiber diameter is "about" the disclosed range (i.e., 10-500 microns) (Amendment, page 6, 2nd paragraph). This is unpersuasive since a patentable distinction is not seen between 10 microns and 9.99 microns. Applicant has not provided any evidence to the contrary. Nor has applicant provided evidence of unexpected results or benefits achieved from the less than 10 microns in comparison to the disclosed 10 microns of Hernandez.

10. Additionally, applicant traverses the above rejection by asserting Hernandez teaches away from the claimed melt blown or spunbond process since the reference teaches solvent spinning (Amendment, page 6, 3rd paragraph). In response, it is reiterated that the melt blown and spunbond limitations are method limitations in an article claim. As such, said limitations are only given weight to the extent that said limitations produce a structurally different product. Applicant has not evidenced any material differences achieved from the present process over the process disclosed by the prior art. Therefore, applicant's arguments are found unpersuasive and the above rejection is maintained.

Conclusion

11. Any inquiry concerning this communication or earlier communications from the

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examiner should be directed to Cheryl Juska whose telephone number is 571-272-1477. The examiner can normally be reached on Monday-Friday 10am-6pm. If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Terrel Morris can be reached at 571-272-1478. The fax phone number for the organization where this application or proceeding is assigned is 703-872-9306.

12. Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

CHERYL A. JUSKA
PRIMARY EXAMINER

cj
April 4, 2005